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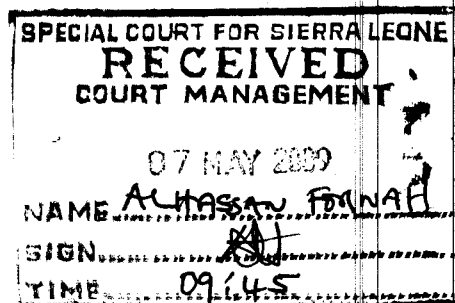
SPECIAL COURT FOR SIERRA LEONE

IN THE APPEALS CHAMBER

Before: Hon. Justice Renate Winter, President,
Hon. Justice Jon Kamanda,
Hon. Justice George Gelaga King
Hon. Justice Emmanuel Ayoola, and
Hon. Justice Shireen Avis Fisher

Registrar: Mr. Herman Von Hebel

Date filed: 7th May 2009



THE PROSECUTOR

V.

ISSA HASSAN SESAY

Case No. SCSL-04-15-A

PUBLIC

**Defence Reply to Prosecution Response to Application for
Extension of Time to File Appeal Brief and Extension of Page Limit**

Office of the Prosecutor

Mr. Vincent Wagona
Mr. Reginald Fynn

Defence Counsel for Issa Sesay

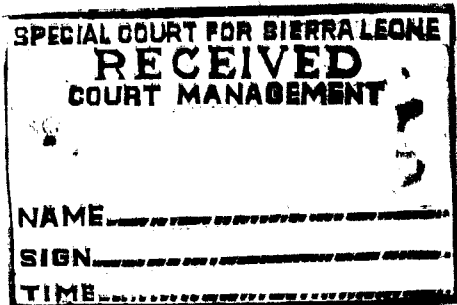
Mr. Wayne Jordash
Ms. Sareta Ashraph
Mr. Jared Kneitel

Defence Counsel for Morris Kallon

Mr. Charles Taku
Mr. Orgetto Kennedy

**Court-Appointed
Counsel for Augustine Gbao**

Mr. John Cammegh
Mr. Scott Martin



1. The Defence here Replies to the "Prosecution Response"¹ to the Sesay Defence "Application for Extension of Time to File Appeal Brief and Extension of Page Limit."²

Reply

2. The Prosecution bases its opposition to the above Application in that extensions of time and extensions to page limits should not be based solely on the number of grounds of appeal, regardless of whether many of those grounds will be directed to errors of fact.
3. The Defence submits that it is not only the number of grounds that the Sesay Defence will file on appeal that distinguishes Sesay's appeal from the appeals in *Prosecutor v. Brima et al.* and *Prosecutor v. Fofana and Kondewa*, but also the size and complexity of both the Prosecution case against Sesay as well as the defence case. This – in conjunction with the number and nature of the grounds of appeal - give rise to a larger volume of work and a corresponding need for a larger page limit. On any reasonable or fair analysis the Sesay Appeal will be substantially larger, require more work and take longer to explain, than the aforementioned cases. The Prosecution's suggestion, that this is not the case, is regrettably based on extraneous and prosecutorial considerations – rather than those concerned with justice and a desire to ensure that the convictions are safe.
4. Indeed, on the 26th April 2007, an independent arbitrator, appointed by the Registry, found that the Sesay case was more sizeable and more complex than the other Accused at the Special Court. The arbitrator found:

That the case against Issa Sesay on its own and/or in relation to the other cases at the Special Court, is sufficiently serious, complex or sizable to amount to exceptional circumstances as to warrant the provision of additional resources under the special consideration clause in the Legal Service Contract.³
5. That Sesay was convicted on more Counts than any other accused person at the Special Court⁴ and that Sesay was sentenced to the highest sentence delivered by the Special Court is further evidence that the case against Sesay was the largest and most complex at the Special Court thus far. Correspondingly, the appeal will be larger. The Defence reiterates its request that the Defence, in the interests of justice, be granted more time and more pages to file its

¹ *Prosecutor v. Sesay*, SCSL-04-15-A-1265, "Prosecution Response to Sesay Defence Urgent Application for Extension of Time to File Appeal Brief and Extension of Page Limit," 6 May 2009.

² *Prosecutor v. Sesay*, SCSL-04-15-A, "Sesay Defence Urgent Application for Extension of Time to File Appeal Brief and Extension of Page Limit," 5 May 2009.

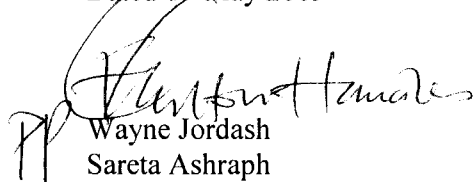
³ The arbitrator's decision is cited at paragraph 5 of *Prosecutor v. Sesay et al.*, SCSL-04-15-T-980, "Decision on the Sesay Defence Team's Application for Judicial Review of the Registrar's Refusal to Provide Additional Funds for an Additional Counsel as part of the Implementation of the Arbitration Agreement of the 26th of April 2007," 12 February 2008.

⁴ Other than Kallon.

Appeal Brief.

6. Turning to a discreet point in the Prosecution Response, the Prosecution – at paragraph four – states that “it inevitably follows that the Prosecution will require additional time and pages to respond to the Sesay appeal brief”⁵ should the Defence be granted additional time and pages to file its Appeal Brief. The Defence does not agree with this assertion. Notwithstanding, the Defence does not oppose the Prosecution being granted additional pages to file its Response Brief. In light of the fact that the defence has raised errors which concern the *overall* fairness of the trial and that Sesay received a 52 year sentence (and will therefore spend the rest of his life in prison) it is absolutely critical that the convictions and sentence receive the fullest of reviews. The Defence would urge the fullest of responses from the Prosecution and welcome a correspondingly detailed consideration of these unsafe convictions.

Dated 7th May 2009


Wayne Jordash
Sareta Ashraph
Jared Kneitel

⁵ Prosecution Response, para. 4.